

Civil Action No. 4:18-cv-4543

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United States Courts
Southern District of Texas
FILED

SEP 18 2019

David J. Bradley, Clerk of Court

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION

Civil Action No. 4:18-cv-04543

Joanna Burke and John Burke

Plaintiffs,

vs.

Hopkins Law, PLLC, Mark Daniel
Hopkins and Shelley Luan Hopkins,

Defendants.

PLAINTIFFS MOTION TO CLARIFY
ORDER (DOC. 50)

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Plaintiffs Joanna & John Burke ("Plaintiffs") question the facts and statements of the Honorable Judge Bray at the conference as grossly incorrect and as a result denied the Burkes due process. The Burkes seek clarification; (i) if this Court is allowed to unilaterally change a status conference into a motion hearing without notice, and; (ii) if Judge Bray still holds true his opinion that the Burkes have not answered the Motion to Dismiss, and (iii) the Burkes seek clarification if this hearing is now deemed void due to a breach of the Burkes constitutional rights to a fair and

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impartial hearing - based on the facts before the Court - which in this case have not even been acknowledged nor read, and; (iv) that the response due per the Courts Order (Doc. 50) by the Burkes can be set-aside as they have spent the last 8 days trying to obtain and then review the transcript, trying to make sense of the hearing, and now spending time prepare and submit this motion, and finally (v) if the Court will reimburse the Burkes costs associated with obtaining the transcript and audio for this hearing which was necessary considering (a) the potential for dismissal of the case without due process (b) the fact Joanna Burke noticed the court she was hard of hearing and that unlike the prior conference with Judge Bray, he did not put on his microphone. Also, Hopkins intentionally mumbled his answers, knowing Joanna Burke would not be able to hear his replies.

Background

The Burkes attended a 'status conference' with the Hon. Magistrate Judge Peter Bray presiding on September 10, 2019. The Burkes, and also opposing counsel, believed this status conference would be a hearing to discuss discovery and reschedule the scheduling order. The Burkes reference the official transcript report - which the Burkes requested an expedited order for the very next morning (but took several days to arrive) due to (i) the bizarre events that unfolded at this hearing and (ii) the short time the Burkes were given during this hearing to reply to a Motion to

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Dismiss (See Doc. 50), despite objections by the Burkes due to Joanna Burkes medical needs and the Burkes other legal deadlines¹.

**The conference, however, was unilaterally and without notice,
changed to a ‘motion hearing’**

If the Court reviews Doc. 52, starting at p. 29, you will note even Hopkins questions the “scheduling order” and “deadlines”... This is also what the Burkes had spent days before preparing to discuss and were confused by the unilateral change to a motion hearing, which was thrust upon them without notice.

**The Burkes are confused and seek clarification
from this honorable court.**

This motion is to address the quizzical events that took place, in particular the claims that the Burkes had not answered the Motion to Dismiss. (Doc. 52, p. 21+) The fact is, the Burkes did answer the Motion to Dismiss (Doc. 32). Hopkins knew the Burkes had answered the Motion to Dismiss as they had replied to the Burkes

¹ The court would also deny the Burkes request in court for an extension of time to reply to the courts demands at the hearing and memorialized in Doc. 50., which is due by [and we assume ‘or on’] September 30th, 2019. The Burkes would now summarize their future diary for the court;

- (a) Joanna Burke is scheduled for a pre-operation eye-surgery meeting on September 17th, 2019.
- (b) The Burkes have a reply brief to prepare and submit to the Fifth Circuit on September 25th, 2019. Hopkins lied again when he said this case on appeal “was fully briefed”. See p. 18, Doc. 52; “MR. HOPKINS: Judge Hittner signed the Motion to Dismiss in the Ocwen filing. That case is now fully briefed at the Fifth Circuit. And we're waiting on their opinion.”
- (c) Joanna Burke is scheduled for the eye operation on September 26th, 2019.

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“MR. BURKE: You know, it's just that I'm still a little bit **confused** that based on one submission by ourselves, this case continues until it stops.

THE COURT: Uh-huh.

MR. BURKE: I just feel that after all we've put into this and we've been driven by Hopkins and Deutsche Bank, supposedly, and nothing of that is being considered. **We've been denied the opportunity.** It's stopping mid-stream. We're being thrown off.

THE COURT: Nobody is throwing you off at this point, sir. Listen, ma'am, hold on. I'm going to explain it to you one more time because I truly want you to walk out of here understanding. I do. That's why I called you in here. I wasn't going to just, you know - **like I said, I could have just taken his motion, read it, saw that you didn't respond and concluded under the Local Rules, Local Rule 7.1, if I'm not mistaken, that says if you don't respond, you don't oppose it. And I could have just dismissed your case...**”

But as the Burkes have advised, Docs 32 and 34 have clearly not been read by the Court, prior to the hearing, or these incorrect statements would not have been made. In summary, due process has been denied and the Burkes object that their constitutional rights to a fair hearing, once again, has been tainted by this Court and now respectfully request an expedited response to their questions.

In the words of Justice Gorsuch, who was recently at the investiture in Austin of Justice Brett Busby to the Supreme Court of Texas;

“Civility and Justice in American Courts should be paramount. Lawyers cost too much. Getting to trial takes too long. Juries promised by the Constitution are rarely used.”

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Justice Gorsuch concludes;

“We got this thing called a Constitution, right? And it starts with the three words, 'We the People' – not 'We the judges,' not 'We in Washington,' not 'We nine old folks' are going to rule the country.”

RESPECTFULLY submitted this 17th day of September, 2019².

I declare under penalty of perjury that the foregoing and following is true and correct. (28 U.S.C. § 1746 - U.S. Code.)



Joanna Burke / State of Texas
Pro Se

I declare under penalty of perjury that the foregoing and following is true and correct. (28 U.S.C. § 1746 - U.S. Code.)



John Burke / State of Texas
Pro Se

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² Today is Constitution Day, it was signed 232 years ago.

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CERTIFICATE OF SERVICE

We, Joanna Burke and John Burke hereby certify that on September 17, 2019, we posted the attached document via USPS Priority Mail to the US District Court;

Clerk of Court
United States District Court
515 Rusk St
Courtroom 703, 7th Floor
Houston TX 77002

And also served copies to the following parties, by USPS Mail:

Mr. Mark Hopkins,
Mrs. Shelley Hopkins
& Hopkins Law PLLC
Hopkins Law PLLC
3809 Juniper Trce, Suite 101
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